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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,371	02/18/2004	Igor Danilo Curcio	915-010.010	3565
4955	7590	11/28/2006	EXAMINER -	
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			CHASE, SHELLY A	
			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/782,371	CURCIO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shelly A. Chase	2133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,12-14,17,18 and 25-29 is/are rejected.
- 7) ☒ Claim(s) 3,4,7-11,15,16 and 19-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

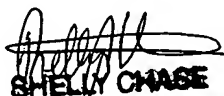
#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8-04 &amp; 8-05</u> . | 6) <input type="checkbox"/> Other: _____  |

  
**SHELLY CHASE**  
**PRIMARY EXAMINER**

### **DETAILED ACTION**

1. Claims 1 to 29 are presented for examination.

#### ***Information Disclosure Statement***

2. The references listed in the information disclosure statement submitted on 8-5-2004 and 8-8-2005 have been considered by the examiner (see attached PTO-1449).

#### ***Specification***

3. The abstract of the disclosure is objected to because a figures are not required as part of the abstract. Please remove the reference to figure 3.

Correction is required. See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 28 and 29 are rejected under 35 U.S.C. 101 because the language of the claim raises a question as to whether the claim is directed merely to a software program per se that is not tied to a technology art, environment or machine which would result in a practical application producing a concrete, and useful result to form the basis of statutory subjected matter under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims **1, 2, 5, 6, 12 to 14, 17, 18, 25 to 28 and 29** are rejected under 35 U.S.C. 102(e) as being anticipated by Maxemchuk et al. (USP 6782490 B2).

Claim 1:

**Maxemchuk** teaches a system and a method for repairing Internet protocol (IP) multicast sessions, comprising the step of: transmitting a group\_1 multi cast session from multicast source (102) to a plurality of multicast receivers (124A, 124A' & 124A'') (see col. 10, lines 5 to 20). **Maxemchuk** also teaches that each repair server ("sender driven or receiver driven") includes a missing packet detector and requests the detected missing packet through retransmission (see col. 11, lines 15 et seq.).

As per claim **2**, **Maxemchuk** teaches that the repair servers retransmit specific missing packets, the remaining portion of the missing packets (see col. 15, lines 45 to 56) and retransmitting the original packet (see col. 14, lines 1 to 6).

As per claims **5** and **6**, **Maxemchuk** teaches that the retransmit servers periodically transmit a real time control protocol (RTCP) report that indicates the quality of the multicast group\_1 sessions wherein the report identifies the number of packets

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that are lost (see col. 8, lines 15 et seq.). Maxemchuk also teaches that the retransmit servers retransmit repair packets in a unicast session then the repair servers transmit the packets in a multicast session to the receivers (see col. 12, lines 25 to 35) wherein the repair servers transmit specific missing packets or the remaining portion (see col. 15, lines 38 to 56).

As per claim 12, Maxemchuk teaches that the RTCP report includes information on the total round trip time and the propagation delay that are computed and communicated between the source and the retransmit servers (see (col. 9, lines 30 to 45).

As per claims 13 and 14, Maxemchuk teaches that the repair servers apply a three second delay to the arriving packets (109) and that the repair servers process the received request for repair using a ranking criterion (see col. 10, lines 22 to 65 and col. 11, lines 15 et seq.).

As per claims 17 and 18, Maxemchuk teaches that the repair servers apply a three second delay to the group\_1 session (see col. 10, lines 22 to 25).

#### Claims 25 and 26:

**Maxemchuk** teaches a system and a method for repairing Internet protocol (IP) multicast sessions, comprising: a multicast source (102) transmitting a group\_1 multicast session to a plurality of multicast receivers through a plurality of multicast retransmit servers (see col. 7, lines 5 to 20). Maxemchuk also teaches that a plurality of repair servers communicates between the plurality of retransmit servers and the

plurality of receivers (124A, 124A' & 124A'') for the purpose of repairing missing packets (see col. 9, lines 66 et seq.).

**Claim 27:**

**Maxemchuk** teaches a system and a method for repairing Internet protocol (IP) multicast sessions, comprising: a multicast source (102) transmitting a group\_1 multi cast session to a plurality of multicast receivers through a plurality of multicast retransmit servers connected to an Internet backbone (106) (see col. 7, lines 5 to 20). Maxemchuk also teaches that a plurality of repair servers communicates between the plurality of retransmit servers and the plurality of receivers (124A, 124A' & 124A'') through router (122A) wherein the repair servers provides missing packets repair for the received session (see col. 9, lines 66 et seq.).

**Claims 28 and 29:**

**Maxemchuk** teaches a system and a method for repairing Internet protocol (IP) multicast sessions, comprising: a plurality of retransmit servers that includes a memory (302) storing instructions for execution by a CPU processor (306). Maxemchuk teaches that the memory stores several programs that aid in repairing missing packets (se col. 14, lines 9 to 25).

Maxemchuk also teaches that each retransmit server buffers packets in a session received from the source (see col. 14, lines 26 to 47) and uses one of the programs stored in the memory for processing the session received from the source

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(see col. 7, lines 39 et seq.). Maxemchuk further teaches that the repair servers include programs executed by a CPU stored in a memory (402) for repairing the missing packets of the sessions (see fig 8 and col. 14, lines 39 et seq.).

### ***Allowable Subject Matter***

7. Claims 3 to 4, 7 to 11, 15,16 and 19 to 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

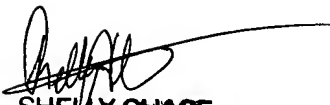
### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelly A. Chase whose telephone number is 571-272-3816. The examiner can normally be reached on Mon-Thur from 8:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**SHELLY CHASE**  
**PRIMARY EXAMINER**